

STATE OF INDIANA)
) SS:
COUNTY OF OWEN)

IN THE OWEN CIRCUIT COURT

CAUSE NO. 60001 0202 PL82

STATE OF INDIANA,)

Plaintiff,)

v.)

DAVID BULL,)
individually and doing business as)
D & C SALES)

Defendant.)

FILED

FEB 25 2002

Julie Bandy
Clerk Owen Circuit Court

COMPLAINT FOR INJUNCTION, COSTS, AND CIVIL PENALTIES

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Terry Tolliver, petitions the Court pursuant to the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1 *et seq.*, for injunctive relief, costs, civil penalties, and other relief.

PARTIES

1. The Plaintiff, State of Indiana is authorized to bring this action and to seek injunctive and other statutory relief pursuant to Ind. Code § 24-5-0.5-4(c).
2. The Defendant, David Bull, individually and doing business as D&C Sales, is an individual doing business as D & C Sales, with a principal place of business in Owen County, located at RR1 Box 130A, Freedom, Indiana.

FACTS

3. At least since February 28, 2000, Defendant has engaged in the retail sale of motor vehicles.

A. Allegations Regarding Justin Coleman

4. On or about February 28, 2000, Defendant entered into a contract with Justin Coleman and sold Mr. Coleman a 1994 Ford Mustang, VIN 1FALP4445RF192724.

5. On or about the date of sale referenced in paragraph 4, Defendant provided Mr. Coleman a Buyer's Guide, pursuant to 16 CFR §455, *et seq.* A true and accurate copy of the Buyer's Guide provided to Mr. Coleman is attached and incorporated by reference as Exhibit "A."

6. The Buyer's Guide provided by the Defendant to Mr. Coleman has a pre-printed star in the box labeled "Warranty" and an "X" in the box labeled "As Is – No Warranty."

7. In truth and in fact, no warranty coverage was provided on the vehicle purchased by Mr. Coleman.

B. Allegations Regarding the John R. Figg Farm

8. On or about March 22, 2000, Defendant entered into a contract with the John R. Figg Farm ("Figg Farm") for the purchase of a 1993 Ford F150 Pickup, VIN 1FTEF14NXPNA59005, for Thirteen Thousand Six Hundred and Fifty Dollars (\$13,650.00), which the Figg Farm paid.

9. On or about the date of sale referenced in paragraph 8, Defendant provided the Figg Farm a Buyer's Guide, pursuant to 16 CFR §455, *et seq.*, reflecting the warranty coverage agreed upon by the parties. A true and accurate copy of the Buyer's Guide provided to the Figg Farm is attached and incorporated by reference as Exhibit "B."

10. The Buyer's Guide provided by the Defendant to the Figg Farm has a pre-printed star in the box labeled "Warranty" and an "X" in the box labeled "Implied Warranties Only."

Furthermore, the Buyer's Guide has an "X" in the box labeled "6 months/7,500 miles", indicating a warranty on the covered systems listed on the form by the Penn Warranty Corp.

11. Although the Defendant provided a warranty to the Figg Farm, the Defendant failed to mark either the box labeled "FULL" or the box labeled "LIMITED WARRANTY." Furthermore, the explanation attached to the "LIMITED WARRANTY" states that "The dealer will pay N/A% of the labor and N/A% of the parts for the covered systems."

12. Upon completion of the sale, Defendant gave the Figg Farm a bill of sale indicating that a "6 month 100% drive train warranty [would be provided] by D&C", not the Penn Warranty Corp. A true and accurate copy of the bill of sale is attached and incorporated by reference as Exhibit "C."

C. Allegations Regarding Nicholas Hess.

13. On or about July 24, 2000, Defendant entered into a contract with Nicholas Hess for the sale of a 1992 Ford F250 SuperCab Truck, VIN 1FTHX26M1NKA76326, for Eleven Thousand Five Hundred and Fifty Dollars (\$11,550.00), which Mr. Hess paid.

14. On or about the date of sale referenced in paragraph 13, Defendant provided Mr. Hess a Buyer's Guide, pursuant to 16 CFR §455, *et seq.* A true and accurate copy of the Buyer's Guide provided to Mr. Hess is attached and incorporated by reference as Exhibit "D."

15. The Buyer's Guide provided by the Defendant to Mr. Hess has a pre-printed star in the box labeled "Warranty" and an "X" in the box labeled "As Is – No Warranty."

16. In truth and in fact, no warranty coverage was provided on the vehicle purchased by Mr. Hess.

COUNT I-VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT

17. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 16 above.

18. The transaction referred to in paragraphs 4, 8, and 13 are “consumer transactions” as defined by Ind. Code § 24-5-0.5-2(a)(1).

19. Defendant is a “supplier” as defined by Ind. Code §24-5-0.5-2(a)(3).

20. Defendant’s representations to Coleman, the Figg Farm, and Hess regarding the characteristics or benefits of the vehicle transactions, when Defendant knew or reasonably should have known that the vehicles did not possess such, as referenced in paragraphs 6, 10, 11, 12, and 15, is a violation of the Indiana Deceptive Consumer Sales Act, Ind. Code §24-5-0.5-3(a)(1).

21. Defendant’s representation to Coleman, the Figg Farm, and Hess that the consumer transaction involves or does not involve a warranty, a disclaimer of warranties, or other rights, remedies, or obligations, if the representation is false and if the supplier knows or should reasonably know that the representation is false, as referenced in paragraphs 6, 10, 11, 12, and 15, is a violation of the Indiana Deceptive Consumer Sales Act, Ind. Code §24-5-0.5-3(a)(8).

**COUNT II- KNOWING AND INTENTIONAL VIOLATIONS OF
THE DECEPTIVE CONSUMER SALES ACT**

22. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1-21 above.

23. The misrepresentations and deceptive acts set forth in paragraphs 6, 10, 11, 12, and 15 were committed by Defendant with knowledge and intent to deceive.

RELIEF

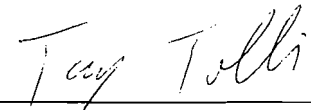
WHEREFORE, the Plaintiff, State of Indiana, requests the Court enter judgment against the Defendant, David Bull, is an individual doing business as D & C Sales, and order the following relief:

- a. a permanent injunction pursuant to Ind. Code §24-5-0.5-4(c)(1), enjoining Defendant from representing that the subject of a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses, or benefits it does not have which the supplier knows or should reasonably know it does not have;
- b. a permanent injunction pursuant to Ind. Code §24-5-0.5-4(c)(1), enjoining Defendant from representing that the subject of a consumer transaction involves or does not involve a warranty, a disclaimer of warranties, or other rights, remedies, or obligations, if the representation is false and if the supplier knows or should reasonably know that the representation is false;
- c. costs pursuant to Ind. Code §24-5-0.5-4(c)(3), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action;
- d. on Count II of the Plaintiff's complaint, civil penalties pursuant to Ind. Code §24-5-0.5-4(g) for the Defendant's knowing violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred Dollars (\$500.00) per violation, payable to the State of Indiana;
- e. on Count II of the Plaintiff's complaint, civil penalties pursuant to Ind. Code §24-5-0.5-8 for the Defendant's intentional violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred Dollars (\$500.00) per violation, payable to the State of Indiana; and

f. all other just and proper relief.

Respectfully submitted,

STEVE CARTER
Attorney General of Indiana
Atty. No. 4150-64

By: 
Terry Tolliver
Deputy Attorney General
Atty. No. 22556-49

Office of Attorney General
Indiana Government Center South
402 W. Washington, 5th Floor
Indianapolis, IN 46204
Telephone: (317) 233-3300

BUYERS GUIDE

IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

VEHICLE MAKE Ford MODEL 94 YEAR 94
 DEALER STOCK NUMBER (Optional) 1FADP4445RF192724 VIN NUMBER 1FADP4445RF192724

WARRANTIES FOR THIS VEHICLE:

☒ **AS IS – NO WARRANTY** – Rebuilt Vehicle
 You will pay all costs for any repairs. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle.

☐ **IMPLIED WARRANTIES ONLY**
 This means that the dealer does not make any specific promises to fix things that need repair when you buy this vehicle or after the time of sale. But, state law "implied warranties" may give you some rights to have the dealer take care of serious problems that were not apparent when you bought the vehicle.

☒ **WARRANTY** THE PENN WARRANTY CORP.
 LIMITED WARRANTY

ASK THE DEALER FOR A COPY OF THE WARRANTY CONTRACT ON THIS VEHICLE

☐ **FULL** ☐ **LIMITED WARRANTY.** The dealer will pay N/A % of the labor and N/A % of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty document for a full explanation of warranty coverage, exclusions, and the dealer's repair obligations. Under state law, "implied warranties" may give you even more rights.

SYSTEMS COVERED:

COVERED SYSTEMS

Engine
 Cooling System
 Brakes

Transmission
 Steering System
 Electrical

Drive Axle
 Suspension
 Labor

DURATION OF COVERAGE MARKED BELOW

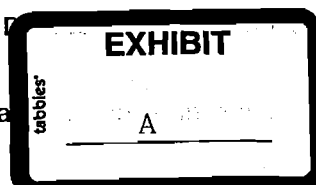
☐ 6 Months/7,500 Miles ☐ 12 Months/15,000 Miles ☐ 24 Months/30,000 Miles ☐ 36 Months/45,000 Miles
☐ 6 Months/Unlimited Miles ☐ 12 Months/Unlimited Miles ☐ 24 Months/Unlimited Miles ☐ 36 Months/Unlimited Miles

READ THE WARRANTY CONTRACT FOR THE SPECIFICS ON SYSTEM COVERAGE

☐ **SERVICE CONTRACT.** A service contract is available at an extra charge on this vehicle. Ask for details as to coverage, deductible price, and exclusions. If you buy a service contract within 90 days of the time of sale, state law "implied warranties" may give you additional rights.

PRE PURCHASE INSPECTION: ASK THE DEALER TO HAVE THIS VEHICLE INSPECTED BY YOUR MECHANIC EITHER ON OR OFF THE LOT.

SEE THE BACK OF THIS FORM for important information, including a list of some major defects that may occur in used motor vehicles.



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FORD **F350** **93**
 VEHICLE MAKE MODEL YEAR
Rebuilt **1FTEF14NXPNA59005**
 DEALER STOCK NUMBER (Optional) VIN NUMBER
WARRANTIES FOR THIS VEHICLE: **X** *Shad Durost, Mgr.*

☐ AS IS – NO WARRANTY

You will pay all costs for any repairs. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle.

☒ IMPLIED WARRANTIES ONLY

This means that the dealer does not make any specific promises to fix things that need repair when you buy this vehicle or after the time of sale. But, state law "implied warranties" may give you some rights to have the dealer take care of serious problems that were not apparent when you bought the vehicle.

☒ WARRANTY

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LIMITED WARRANTY

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☐ FULL ☐ LIMITED WARRANTY. The dealer will pay N/A % of the labor and N/A % of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty document for a full explanation of warranty coverage, exclusions, and the dealer's repair obligations. Under state law, "implied warranties" may give you even more rights.

SYSTEMS COVERED:

COVERED SYSTEMS

Engine
Cooling System
Brakes

Transmission
Steering System
Electrical

Drive Axle
Suspension
Labor

DURATION OF COVERAGE MARKED BELOW

☒ 6 Months/7,500 Miles ☐ 12 Months/15,000 Miles ☐ 24 Months/30,000 Miles ☐ 36 Months/45,000 Miles
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EXHIBIT

B

D & C TRUCK SALES & SERVICE

Complete Line of Truck Accessories
2 Mi. South of Freedom on State Road 67/231
Route 1 Box 130
FREEDOM, IN 47431
(812) 829-0336 Fax (812) 829-0395

CUSTOMER'S ORDER NO

PHONE

DATE

3/22/00

NAME

ADDRESS

John R Figg Farm

SOLD BY

CASH

C.O.D.

CHARGE

ON ACCT.

MDSE. RET'D.

PAID OUT

QTY.

DESCRIPTION

PRICE

AMOUNT

Rebuilt 1993 Ford with
VIN # 1FTEF14NXPNA59005

Price

\$13000.00

Tax

650.00

Due

\$13650.00

6 Month 100% Drive train
Warranty by D & C

TAX

3/22/00

RECEIVED BY

TOTAL

C PRODUCT 6107

All claims and returned goods must be accompanied by this bill

THANK YOU

EXHIBIT

C

BUYERS GUIDE

D & C TRUCK SALES & SERVICE
Route 1 Box 130
Freedom, IN 47431-9751
(812) 829-0336

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VEHICLE MAKE Ford MODEL F250 YEAR 92

DEALER STOCK NUMBER (Optional)

VIN NUMBER 1FTHX26M1NKA7632C

WARRANTIES FOR THIS VEHICLE:

☒ **AS IS – NO WARRANTY** *Rebuilt vehicle*

You will pay all costs for any repairs. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle.

☐ **IMPLIED WARRANTIES ONLY**

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COVERED SYSTEMS

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Drive Axle
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D